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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/697,176

10/30/2003

Richard J. Lanigan

1062/D73

8157

73544

7590

08/20/2008

Michelle Saquet Temple  
DEKA Research & Development Corporation  
340 Commercial Street  
Manchester, NH 03101-1129

EXAMINER

DWIVEDI, VIKANSHA S

ART UNIT

PAPER NUMBER

3746

MAIL DATE

DELIVERY MODE

08/20/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/697,176	<b>Applicant(s)</b> LANIGAN ET AL.	
	<b>Examiner</b> VIKANSHA S. DWIVEDI	<b>Art Unit</b> 3746	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 August 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 28-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 November 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/6/2008 has been entered.

### ***Claim Objections***

Claim 42 objected to because of the following informalities: "fore" seem to be in error for - -force- -. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 39 recites the limitation "the bezel" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 28-53 are rejected under 35 U.S.C. 102(b) as being anticipated by Kamen et al. (U.S. Patent number 5,628,908).

a system for pumping fluid comprising: a pump cassette (24) that includes a pumping chamber (P1, P2), an inlet, an outlet (26-32), one or more fluid channels, and a flexible membrane (124) that can be displaced to pump fluid within the pump cassette (24); a chassis (Figure 1, controller 16 is on a base) on which a control assembly (16) is fixably attached, the control assembly having pneumatic channels (As seen in figure 12A the membrane 124 includes one or more small through holes 125 in each region overlying the pump and valve actuators PA1/PA2/VA1 to VA10. The holes 125 are sized to convey pneumatic fluid pressure from the piston element actuators to the cassette diaphragm) for actuating the flexible membrane (124) on the pump cassette (24); a door (106) hingedly (hinges not numbered but clearly shown in figure 7) mounted to the chassis (figure 1), the door including a force assembly (14) for pressing the pump cassette (pneumatically pressing) against the control assembly (a cyclor 14 that interacts with the delivery set 12 to pump liquid through it; and a controller 16 that governs the interaction to perform a selected procedure); and a cassette receptacle (100) interposed between the door (106) and the chassis; wherein the pump cassette (24) can be supported by the cassette receptacle (100), and the cassette can be sealingly (seal 112) against the control assembly (16) upon closing the door and actuating the force assembly; wherein the force assembly (14) comprises a movable member (20) that can be actuated after the door has been closed against the pump cassette and control assembly; wherein the movable member comprises an

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expandable member (20); wherein the expandable member can be pneumatically expanded (Col. 6 ll. 15-21); further comprising a pneumatic circuit (Figure 1) for controlling the expandable member; wherein the expandable member comprises a bladder (152); movable member is coupled to a piston assembly, the piston (102) capable of contacting the pump cassette; wherein the cassette receptacle is movably coupled to the interior side of the door (Figure 7); wherein the cassette receptacle is movably coupled to the control assembly (Figure 1); wherein the control assembly comprises a gasket (118) including a membrane (124) capable of being displaced to operate the pump cassette; further comprising means to disengage the pump cassette from the operating means upon opening the door (114); wherein the control assembly includes a rigid plate (bottom and sides of controller) to which a bezel is attached (sloping edge of the controller).

### ***Response to Arguments***

Applicant's arguments with respect to claim 1-27 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VIKANSHA S. DWIVEDI whose telephone number is (571)272-7834. The examiner can normally be reached on M-F, 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on 571-272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devon C Kramer/  
Supervisory Patent Examiner, Art  
Unit 3746

VSD